

### Remarks

The Non-final Office Action mailed on November 21, 2007 has been carefully reviewed and considered. Claims 3-9, 11-14, 16-18, 20-22 and 24 are pending in the application. Of these, claims 11-14 to 16-18 and 20-22 are again allowed. Applicants thank the Examiner for this indication of allowance. Applicants also thank the Examiner for entry of the Request for Continued Examination filed on August 21, 2007. Claims 3-9 and 24 stand rejected under 35 USC §103(a). Applicants respectfully traverse the pending rejections.

### 35 USC §103

Claim 3-9 and 24 stand rejected under 35 USC §103(a) as being unpatentable over United States patent number 5,801,747 to Bedard (*hereinafter* Bedard) in view number of European patent EP 1 091 581 A2 to Smith et al. (*hereinafter* Smith) and in further view of United States patent number 5,610,653 to Abecassis (*hereinafter* Abecassis) and in further view of United States patent number 6,701,523 to Hancock et al. (*hereinafter* Hancock). Applicants respectfully traverse the rejections.

The present invention relates to an apparatus and method for assisting in the selection of television programs for viewing. Abstract. In this context, claim 24 recites:

A system for generating a list of suggested scheduled television programs comprising:

means for receiving data comprising broadcast time and scheduled program characteristics of a plurality of scheduled television programs;  
means for identifying a first television program being viewed by a user;

means for receiving data regarding a first program characteristic of the first television program, said first program characteristic being one of said scheduled program characteristics of said plurality of scheduled television programs;

means for storing a first relevancy factor for said first program characteristic;

means for storing a user profile for said user, said user profile including characteristic weights given by the user to the scheduled program characteristics of said plurality of scheduled television programs, said characteristic weights further including a weight for said first program characteristic of said first television program;

first processor means for periodically incrementing a weight for said first program characteristic in the user profile, wherein an incremented weight for said first program characteristic includes a number of time periods the first television program is watched by the user times the first relevancy factor for said first program characteristic;

first user interface means for selecting a future time period and for requesting a list of suggested scheduled television programs scheduled to be broadcast during said future time period;

second user interface means for selecting between a first mode and a second mode, wherein if said first mode is selected, a first one of said plurality of scheduled television programs having at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is included in said list of suggested scheduled television programs, and if said second mode is selected, a second one of said scheduled television program having at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is not included in said list of suggested scheduled television programs;

and further comprising second processor means for generating said list of suggested scheduled television programs by sorting said television program schedule data according to said scheduled program characteristics of said scheduled television programs, said characteristic weights in said user profile, said mode selection, and said future time period selection.

In contrast, the Bedard reference relates to a method and apparatus for monitoring television viewing activity including "an electronic program guide... a block-out feature to prevent or limit the viewing of specified channels or categories of programming, or to provide information of interest on the Internet." Abstract.

### **Deficiency 1**

The Office Action alleges that Bedard shows various claimed features of the invention, but acknowledges (page 4, line 17-page 5, line 6) that the Bedard reference does not teach or suggest "means for storing a first relevancy factor for ... [a] first program characteristic."<sup>1</sup>

### **Deficiency 2**

The Action also acknowledges that Bedard does not teach or suggest "first processor means for periodically incrementing a weight for said first program characteristic in the user profile, wherein an incremented weight for said first program characteristic includes a number of time periods the first television program is watched by the user times the first relevancy factor for said first program characteristic."<sup>2</sup> Contradicting this acknowledgment, the Office Action (at page 4, lines 6-9) suggests that Bedard teaches "first processor means for periodically incrementing characteristic weights in said table based on said characteristics data" at column 3, line 63-column 4, line 26 and column 5, line 34-48. Applicants respectfully submit, however, that these features are not found in the identified portions of Bedard, or anywhere in the references of record.

### **Deficiency 3**

In addition, the Office Action acknowledges that Bedard fails to teach or suggest "first user interface means for selecting a future time period and for requesting a list of suggested scheduled television programs scheduled to be broadcast during said future time period."<sup>3</sup>

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<sup>1</sup> "Bedard fails to disclose means for storing a characteristics relevancy factor

<sup>2</sup> and the periodic incrementing of characteristic weights includes considering a characteristics relevancy factor (time watched times relevancy factor)

<sup>3</sup> selecting a future time period for displaying suggested television programs scheduled to be broadcast during said future time period

#### Deficiency 4

Further, the Office action acknowledges that Bedard does not teach or suggest "second user interface means for selecting between a first mode and a second mode, wherein if said first mode is selected, a first one of said plurality of scheduled television programs having at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is included in said list of suggested scheduled television programs, and if said second mode is selected, a second one of said scheduled television program having at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is not included in said list of suggested scheduled television programs."<sup>4</sup>

The Office Action proposes to remedy these deficiencies by the combination of Bedard with Smith, Abbecassis, and Hancock. However, even accepting, *arguendo*, the propriety of the proposed combination, Bedard, Smith, Abbecassis and Hancock, whether alone or in combination with the references now of record, do not teach or suggest every feature of the invention as claimed.

Smith relates to an electronic program guide that "allows the user to select programmes of interest from [a] display and then store the same in a manner which allows the programmes which have been selected to be viewed at a later time." Paragraph 3. The Office Action asserts that "Smith teaches an electronic program guide wherein users are provided with the option to view future programming, allowing users to plan their viewing schedule in advance," and

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<sup>4</sup> and a second user interface means for selecting between a first mode wherein a television program having a plurality of characteristics wherein at least one of said plurality of characteristics has a zero weight inside table of characteristic weights for a user is included in said list of suggested television programs, and a

that, in view of Smith, one of skill in the art would allegedly "modify the system disclosed by Bedard to include in the user interface means for selecting a future time period, as taught by Smith, for the benefit of allowing users to plan their viewing schedule well ahead of time." Page 5. Accordingly, it appears that the Smith reference is applied by the Patent Office against acknowledged Deficiency 3, as identified above.

Abecassis relates to a "video method and system for automatically tracking a viewer defined target within a viewer define window of a video image as the target moves within the video image." Abstract. The Office Action refers to Abecassis' statements that "a standardized set of descriptive structures... permit the automatic application of the viewer's content preferences... by assigning unique category codes to each of the preestablished standardized content categories and by reserving a range of category codes that will be recognized by the system as requiring interactive input by the viewer." Column 9, lines 8-19. Figure 1 shows a "matrix of content categories and a corresponding coding scale utilized to assign a content code to a segment of a video... not limited to the coding of possibly objectionable content." Column 7, lines 52-60. "The coding scale 112 mirrors the rating system utilized by the motion picture Association of America (G, PG, PG-13, R. and NC-17)... but provides a more descriptive coding scale." On the basis of these statements, the Office Action concludes that Abecassis provides "the benefit of a more descriptive and accurate methodology for classifying and subsequently selecting content."

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second mode wherein a television program having at least one characteristic which has a zero weight in said cable is not included in said list of suggested television programs.

As best understood, the Abecassis reference is offered against Deficiency 1 as identified above. The assertion of the Patent Office notwithstanding, Applicant respectfully submits that the combination of Bedard and Abecassis would not have taught or suggested the claimed features of the invention to the creative practitioner of ordinary skill in the art.

The Hancock reference relates to "an apparatus and method that provides for a user interface for programmable blocking, such as for parental control, of viewable programs, such as programs that can be viewed on a television receiver." Column 3, lines 20-23. With reference to figure 2 of Hancock, the Office Action notes that according to Hancock " [t]he 'Master/Administrator' user/viewer can block a selected user's access by ratings or content codes... (a viewer is allowed to view programs that include unblocked ratings or content codes... a viewer is not allowed to view programs that include blocked ratings or content codes), providing a dynamic control over what types of content are allowed to be watched by certain viewers," (emphasis added).

As best understood, the Hancock reference is offered in combination with Bedard, Smith and Abecassis against acknowledged Deficiency 4. Applicant respectfully submits, however, that even if, *arguendo*, Hancock is construed to teach "second user interface means" the Hancock reference, alone or in combination with the other references of record, does not teach or suggest every claimed feature of the invention including:

a first mode... wherein... scheduled television programs having... characteristics whose weight in said user profile is equal to zero is

included in [a]... list of suggested scheduled television programs, and... [a] second mode... [in which a] scheduled television program having... characteristics whose weight in said user profile is equal to zero is not included in said list of suggested scheduled television programs.

Emphasis added.

Applicant respectfully submits that the Patent Office contention (page 7) that "characteristics not ordinarily used in selecting programming, such as MPAA rating or content codes, are ignored by the program suggestion engine taught by Bedard, and our thoughts considered 'zero weight' characteristics," completely misconstrues the language of the claim. The Patent Office is entitled to give claim terms their broadest reasonable reading. Nevertheless, the claim terms must be read in light of this specification. Applicants do not understand how the asserted "characteristics not ordinarily used in selecting programming" could possibly be construed by the creative practitioner of ordinary skill in the art as a "weight in [a] user profile" (emphasis added).

There is nothing in the references of record that would lead a creative practitioner of ordinary skill in the art to in any way relate "characteristics not ordinarily used in selecting programming" to the periodically incremented weight recited in the claim. Further, Applicants respectfully submit that the "not ordinarily used in selecting programming" construction is unsupported in the references of record.

In addition, Applicants respectfully submit that acknowledged Deficiency 2 is not addressed in Office Action. Deficiency 2 of the Bedard reference is

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acknowledged by the Patent Office, but no remedial teaching or suggestion of the prior art is identified in the now-pending Office Action. Consequently, Applicants respectfully submit that the Office Action does not make out a *prima facie* case for the obviousness of claim 24 under 35 USC §103(a). Accordingly, for reasons including those presented above, the rejection of claim 24 under 35 USC §103(a) over Bedard in view of Smith in further view of Abecassis and in further view of Hancock should be withdrawn.

Claims 3-9 each depend, directly or indirectly from claim 24 and incorporate every feature thereof. Accordingly, for at least the reasons given above in relation to claim 24, the rejection of claim 3-9 under 35 USC §103(a) over Bedard in view of Smith in further view of Abecassis and in further view of Hancock should also be withdrawn.

A petition for a three month extension of time is transmitted herewith. If required, the Commissioner is hereby petitioned, under 37 C.F.R. § 1.136 (a), to extend the time for filing a response to an outstanding Office Action, or any communication filed in this application by this firm, by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 07-0832 of Thompson, LLC




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Having fully addressed the Examiner's rejections it is believed that, in view of the preceding remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6440, so that a mutually convenient date and time for a further telephonic interview may be scheduled.

Respectfully submitted,

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